

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DANIELLE SCOTT,

Petitioner,

Case No. 2:15-cv-11250  
Hon. Matthew F. Leitman

v.

BONITA HOFFNER,

Respondent.

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**ORDER DENYING WITHOUT PREJUDICE PETITIONER'S  
MOTIONS FOR APPOINTMENT OF COUNSEL AND  
EQUITABLE TOLLING [Dkt. Nos. 3 and 4]**

On April 1, 2015, Petitioner Danielle Scott, a state inmate, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254, alleging that he is incarcerated in violation of his constitutional rights. Pending before the Court is Petitioner's motions to appoint counsel and for equitable tolling. For the reasons set forth below, the Court will deny the motions without prejudice.

The constitutional right to counsel in criminal proceedings provided by the Sixth Amendment does not apply to an application for writ of habeas corpus, which is a civil proceeding. *Cobas v. Burgess*, 306 F.3d 441, 444 (6th Cir. 2002), cert. denied, 538 U.S. 984 (2003), reh. denied, 539 U.S. 970 (2003). The Court has broad discretion in determining whether counsel should be appointed. *Childs v. Pellegrin*,

822 F.2d 1382, 1384 (6th Cir. 1987). A habeas petitioner may obtain representation at any stage of the case "[w]henever the United States magistrate or the court determines that the interests of justice so require." 18 U.S.C. § 3006A(a)(2)(B). In this case, the Court has yet to receive a response from Respondent to the petition. The Court therefore finds that it is premature to determine whether justice requires appointment of counsel. The Court will reconsider this request on its own motion when it reviews the answer and state court record.

Similarly, with respect to Petitioner's motion for equitable tolling, it is unknown whether Respondent will argue that the petition was untimely filed or how it will respond to the argument that Petitioner is entitled to equitable tolling due to his mental illness. The Court will consider Petitioner's arguments for equitable tolling along with any arguments raised by Respondent in its answer.

Accordingly, **IT IS ORDERED** that Petitioner's motion for appointment of counsel and for equitable tolling are **DENIED WITHOUT PREJUDICE**.

**IT IS SO ORDERED.**

/s/Matthew F. Leitman  
MATTHEW F. LEITMAN  
UNITED STATES DISTRICT JUDGE

Dated: October 6, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on October 6, 2015, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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